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Public Administration and the Evolution of Administrative Law: From Institutional Logic to Organizational Logic

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Abstract

Objectives: This study explores the transformation of public administration and administrative law from an institutional logic to an organizational logic in response to globalization and the diffusion of liberal economic values. It aims to analyze how this shift, driven by New Public Management (NPM), has affected traditional administrative law frameworks, particularly in countries with specific administrative legal systems and jurisdictions.

Methods: A conceptual and comparative approach was employed to examine the evolving relationship between administrative law and public administration. Relevant literature and legal frameworks were reviewed to assess how managerial principles have influenced administrative reforms and reshaped the roles of legality, public-private boundaries, and judicial oversight.

Results: The findings reveal that the traditional application of administrative law—rooted in the principle of legality—has increasingly been adapted or replaced by managerial models emphasizing flexibility, efficiency, and profitability. Many countries have restructured their public sectors according to NPM principles, resulting in significant changes to public management practices and judicial control mechanisms within administrative jurisdictions.

Conclusions: Administrative law now faces the challenge of reconciling managerial rationality with foundational legal principles. The shift from institutional to organizational logic has significant implications for governance, especially in legal systems that maintain distinct administrative courts and laws. Effective integration of these managerial models requires a careful balance to preserve public interest and legal accountability.

Keywords: Administrative law, Public administration, New Public Management, Management, Judicial oversight.

الإدارة العمومية وتطور القانون الإداري: من منطق المؤسسة إلى منطق المنظمة

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ملخّص

الأهداف: تتناول هذه الدراسة تحوّل الإدارة العامة والقانون الإداري من منطق مؤسسي إلى منطق تنظيمي استجابةً للعولمة، وانتشار القيم الاقتصادية الليبرالية. وتهدف إلى تحليل كيفية تأثير هذا التحوّل الذي تقوده إدارة القطاع العام الجديدة، على الأطر التقليدية للقانون الإداري، لا سيما في الدول التي تتمتع بأنظمة قانون إداري، وقضاء إداري متميز.

المنهجية: تم اعتماد منهج مفاهيمي ومقارن لدراسة العلاقة المتطورة بين القانون الإداري والإدارة العامة. وقد جرى مراجعة الأدبيات ذات الصلة والأطر القانونية لتقييم مدى تأثير المبادئ الإدارية على الإصلاحات الإدارية، وكيف أعادت تشكيل أدوار الشرعية، وحدود القطاعين العام والخاص، والرقابة القضائية.

النتائج: تكشف النتائج أن التطبيق التقليدي للقانون الإداري - القائم على مبدأ الشرعية - أصبح يتكيّف أو يُستبدل تدريجياً بنماذج إدارية تركّز على المرونة والكفاءة والربحية. وقد أعادت العديد من الدول هيكلة قطاعاتها العامة، وفقاً لمبادئ إدارة القطاع العام الجديدة، مما أدى إلى تغييرات كبيرة في ممارسات الإدارة العامة، وآليات الرقابة القضائية في إطار القضاء الإداري.

الخلاصة: يواجه القانون الإداري اليوم تحدي التوفيق بين العقلانية الإدارية والمبادئ القانونية الأساسية. إن التحوّل من المنطق المؤسسي إلى المنطق التنظيمي له آثار عميقة على الحوكمة، خاصة في الأنظمة القانونية التي تحتفظ بقضاء إداري وقوانين إدارية مستقلة. ويتطلب التكامل الفعّال لهذه النماذج الإدارية توازناً دقيقاً للحفاظ على المصلحة العامة والمسؤولية القانونية.

الكلمات الدالة: القانون الإداري، الإدارة العمومية، التدبير العمومي الجديد، المشروعية، الفعالية، المراقبة القضائية، دولة القانون.

Introduction

Driven by globalization, the spread of liberal values, and the transition to a market economy, the late 20th century witnessed an intense debate on the role of the state and models of public management. Many countries intervened in various ways in the management of their economies, sometimes to correct market failures and sometimes to directly manipulate them. These forms of intervention were carried out through the privileges of public authority that the state enjoys, guaranteed by legal and material mechanisms. Consequently, the state, described as interventionist, became an economic and social actor *par excellence*, exerting influence on social relations and economic balances, whereas previously it had focused solely on maintaining social stability.

The rapid development of international trade furthered the evolution of the market economy as well as the opening of borders, resulting in the generalization of competition and the globalization of the liberal economy. For this evolution to occur, most countries had to reduce their roles and functions by encouraging the involvement of private economic actors and promoting investment, which had become a matter of international competition. This led to the adoption of economic strategies characterized by the liberalization of the economy, the removal of regulations in most sectors, and the beginning of a privatization policy.

All these transformations subjected the state to a double constraint: on the one hand, the interventionist state found itself compelled to withdraw from sectors it had recently controlled in the name of the public interest and to hand them over to the private sector for management; on the other hand, the interventionist/providential state was compelled to remain in the economic and social domain of human rights, supporting policies such as reducing unemployment rates, protecting workers' rights, and providing social assistance in the fields of health, social security, and education. These policies led the state to adapt its interventions in response to economic and social demands that required it to maintain its functions of regulation, monitor economic activity, and take charge of certain social and economic activities vital to the public.

The transformations that the public service has undergone have led states to adapt their administration and forms of public management to the new tasks that have fallen to them. The once sprawling and bureaucratic administrations have morphed into more flexible and competitive organizational arrangements. Over the past two decades, all governments—both in the West and the East, whether liberal or socialist—have begun to rebrand their administrative programs and adopt change strategies oscillating between modernization and reform, depending on the political conditions of each country.

Experiments from various countries have demonstrated this shift. In England, for example, during the Conservative era of the 1980s, a modernization strategy was adopted that was considered the most radical in Europe (Williams, 2024). This was accompanied by an ideology opposing state intervention and a desire to modernize public management, combined with a determined governmental will to reduce the bureaucratic apparatus and transform the public service culture by introducing new management forms based on managerial rationality. This modernization strategy maintained a critical view of the public service, as the government worked to reduce the number of employees and shift to a contractual system (Wright, 1995).

Similarly, the wholesale reform in New Zealand that began in the 1980s and was completed in the 1990s exhibited how different sectors adopted private sector–like practices, leading to a redistribution in public law and practices (Scott et al., 2023). In France, the modernization policy was implemented through the introduction of techniques and forms of public management originating in the private sector (Rouban & Ziller, 1995), and the decentralization reforms of the 1980s aimed to increase administrative efficiency by delegating authority to local governments (Thoenig, 2005). These cases highlight how different nations have restructured their public administrations to align with managerial principles (Alba, 1995).

In this context of transformations, the evolution of traditional administrative law and its judicial system refers to the situation in which administrative law sees its domain, rationality, and value system contested and shaken by a different model—namely, the managerial model. In particular, for countries that adopt the dual system of law and jurisdictions, traditional administrative law is considered a mirror of the legitimacy of state activity (the rule of law) and was designed to be a constraint on the public administrative apparatus by requiring it to adhere to rules that enshrine the principle of legality. It was also intended as a tool to achieve the public interest through mechanisms and privileges that are authoritarian but not arbitrary, since administrative action remains subject to the legal rules imposed by the legislature and judicial oversight.

On the other hand, the managerial approach promotes efficiency and flexibility, often at the expense of the legal constraints imposed by administrative law. These transformations seem to affect the uniqueness and specificity of traditional administrative

law, while raising questions about its continuity, disappearance, or coexistence with the management model.

Administrative Law and the Institutionalization of Public Administration

The idea of the institution dates back to the positivist legal tradition of Dean Maurice Hauriou, a French administrative jurist (Węgliński, 2022). Hauriou considered the institution to be a set of social facts that, over time, acquire the appearance of an objective reality, becoming interwoven with individual life. Institutions emerged following the transition of a group of individuals from the state of nature to the social state, where they recognize an authority external to their own interests and priorities.

From this perspective, the production of institutions unfolds in a dialectical process with three stages: first, the institution separates from the individuals who established and externalized it; next, it takes on the appearance of an objective reality; and finally, it is integrated and internalized in individual consciousness. Thus, the institution is perceived as a positive entity, defining the social community and the rules that govern it.

Viewed in this way, the institution represents the optimal organization of the social group, expressing the maturity and completeness of that group. However, for such a group to form and continue to exist, it must realize a "work idea" or project that allows it to present itself as an independent entity formed around common values and objectives. These shared values and goals require the establishment of three essential mechanisms: an organized structure, manifestations of communion, and action procedures.

Hence, the structure is subjected to a process of "institution of power" within itself—first, by establishing an organizational framework that defines the actors and their roles; and then, by establishing coercive rules to which the various actors of the institution must conform (Millard, 1995).

It is worth emphasizing that this coercive and regulatory aspect distinguishes the institution: it exists only if actions and behaviors are regulated, codified, and accompanied by sanctions ensuring their compliance with pre-established rules corresponding to the set objectives. This institutional analysis by jurists frames public administration as a state institution endowed with a distinct body of law that governs it in order to realize a work idea or project (1), and subject to a specialized judicial apparatus that monitors its compliance with the governing rules (2).

The administrative institution and its administrative law

If organizations are formed around a system of relationships that are not necessarily fixed by legal texts, institutions often determine the rule of law that grants them broader or narrower capacities to regulate their internal organization and conflicts, and to provide greater or lesser independence in the relationships established with other institutions or organizations.

First, public administration appears as an institution with an organized structure, characterized by differentiation and a hierarchical, stratified form, where each level represents a step toward the top. This differentiation and stratification represent both a distribution of roles and a definition of powers, competencies, and tasks. They also reflect the power dynamics and dependency relationships between the different levels within this hierarchical structure.

Secondly, public administration functions as an institution subject to a regulatory element represented by administrative law. This body of law consists of binding legal rules that are agreed upon and oriented toward both organizational structure and individuals. These rules typically concern, for example, the organization of the public administrative apparatus, the regulation of administrative operations through the definition of competencies and procedures, and the relationship between this apparatus and both the governed (the administered) and the governing political authority (the state).

Therefore, the idea of the administrative institution necessitates the establishment of legal rules that define the roles and competencies of each actor within it and require its members to comply with these rules in order to fulfill the purpose or "work idea" for which the institution was created.

Finally, public administration appears as an institution established to realize a previously defined idea of work or project: the general interest. Thus, power, competencies, and activities—in countries where sovereignty belongs to the law—are not personal but are legal in nature (Cass, 2022). In the context of the rule of law, administrative institutions find their foundation in the general legal principles that govern them. This stems from the subordination of the administrative apparatus to political authorities, the alignment of administrative action with the directives of the ruling political power, and the conformity of the administrative system with the legal and political framework that governs the state and its institutions in pursuit of the common good.

In this context, the submission of administrative authorities to impersonal rules, as represented by administrative law, ensures the internal coherence of an objective system and adherence to overarching goals that transcend and bind it. However, this submission is limited to the general objectives set for the administrative institution, rendering it a mere instrument in the hands of the ruling political power to serve the general interest and respond to the needs of the administered population (De Laubadère et al., 1980).

The administrative institution and its administrative judge

In countries where sovereignty belongs to the law, public administration is accountable to the governing political authority while also being potentially subject to judicial review, often initiated through appeals filed by the administered (Rousset & Rousset, 2004). Judicial oversight of the administration can be carried out by ordinary courts, in which case the administration is judged like any individual and under the same legal conditions. This model is generally found in Anglo-Saxon countries that adopt the principle of the unity of law and jurisdiction and whose legal systems are rooted in the common law tradition.

Alternatively, oversight can be exercised by administrative courts—distinct judicial authorities specializing in administrative matters—applying a separate and autonomous body of law, namely administrative law. This model has been adopted by Latin countries that derive their legal systems from the Romano-Germanic tradition. For instance, France is considered the cradle of this duality in both law (public law and private law) and jurisdiction (administrative courts and ordinary courts). Its dualistic system has influenced many countries in both the West and the East.

Administrative jurisdiction constitutes a vital component of administrative law. Historically, France emerged as the birthplace of both administrative law and administrative justice. In the absence of codified administrative legislation, the French Council of State, as an administrative court, played a foundational role in articulating the principles and rules that govern the administrative apparatus. It defined competencies and outlined the framework of administrative law. These judicial contributions, supported by leading legal scholars, led to the development of numerous doctrines, principles, and rules regulating the activities of administrative bodies and their interactions with individuals subject to their authority. These include the rules of administrative liability, regulations concerning administrative contracts, and provisions governing administrative decisions and material actions (Rivero, 1955).

Over time, the legislative branch intervened to codify administrative rules governing the organization of public administrations, their powers, their methods of operation, and their relations with citizens. Most of these codified norms trace their origins to jurisprudence and legal doctrine.

Thanks to judicial review, individuals could sue the administration in administrative courts to compel it to respect their rights and freedoms guaranteed by law. Furthermore, through the laws governing administrative activity, judges could assess the legality or illegality of administrative actions, striving as much as possible to reconcile two interests: the general interest, which constitutes the objective of administrative work, and the private interest, which the law guarantees to individuals.

However, the control exercised over public administration carried certain risks. A judiciary separate from the administration and unfamiliar with the practical constraints of administrative action might prioritize private interests over the general interest, potentially undermining administrative efficiency. In addressing this dilemma, it was deemed inappropriate to adopt a foreign judicial model whose culture, values, and administrative references were misaligned with the local administrative context.

Consequently, many countries sought to create stronger links between administrative justice and administrative bodies by fostering an organic relationship between them. This was often achieved by integrating a number of high-ranking administrative officials into the ranks of administrative judges and permitting some judges to perform administrative functions (Gaudemet, 1995). Due to this proximity between the administrative judge and the administration, the former was able to develop legal rules that balanced the operational constraints of administrative work with the protection of individual rights and freedoms—without compromising judicial independence and impartiality.

The Management Model and the Idea of the Organization

Modern society is characterized by the complexity of its social organization, but it also exhibits features of a bureaucratic society (Rocher, 2011). Organization serves as a tool that provides a social group with the means for development, progress, and prosperity, while also enabling it to achieve the objectives that justify its formation. The organizational context necessitates the

presence of two inseparable elements: first, the establishment of an overarching structure within which roles are precisely distributed; and second, the designation of an authority that allows certain individuals to exercise control over others in order to pursue and accomplish the organization's goals.

Within this context, contemporary administrations, modeled on Weber's bureaucratic framework (M. Weber), present themselves as structured organizations. They rely on a hierarchical and pyramidal structure characterized by a detailed division of functions and tasks based on competence and specialization. This structure is accompanied by general and abstract rules that regulate duties and ensure the predictability of behavior. Additionally, it is essential to define a central authority responsible for coordinating activities and resolving internal conflicts. Viewed from this perspective, the bureaucratic organization appears as a mosaic of distinct, interdependent, and harmoniously coordinated activities aimed at achieving predetermined objectives, thereby ensuring precision, continuity, and predictability (Côté et al., 1994).

However, this bureaucratic organizational model—adopted by many modern organizations and administrations—has faced significant criticism in recent decades (Caillosse, 1989, 1999, 2000; Universalis et al., 1992). This criticism can be summarized in three main points: first, the rigidity and inefficiency resulting from the application of general and impersonal legal rules that predefine the functioning of the organization and hinder its adaptability to environmental changes; second, the weight of hierarchical stratification, which concentrates decision-making power at the upper levels, thus rendering decision processes cumbersome and obstructing the accurate flow of orders and information; and third, the emphasis placed on hierarchical obedience at the expense of recognizing individual initiative and dynamism among subordinates, which diminishes motivation and leads to frustration and disengagement.

These critiques of the bureaucratic model have largely paved the way for the emergence of the managerial model, which is founded on principles designed to address and overcome the dysfunctions inherent in bureaucratic systems.

The managerial model and public administration: The establishment of the principle of efficiency

Starting in the 1960s, the managerial model was successfully implemented in Anglo-Saxon countries and subsequently spread to many other nations (Halligan, 2016). The elements of this model were presented as a remedy, enabling all forms of organizations, including public administrations, to overcome bureaucratic dysfunctions (Chevallier & Lochak, 1982).

The main appeal of the managerial model lies in its focus on work efficiency. In administrative activity, the rational organization of work is traditionally based on pre-established general rules and strict adherence to procedures and formalities—factors that often cause rigidity and slowness. In contrast, the managerial model prioritizes efficiency, which dictates the organization of work, the prescription of procedures, and the nature, scale, and cost of public interventions in accordance with real-world demands and the constraints they impose. This approach requires the establishment of bilateral and personalized relationships between administrative organizations and the actors within their operational environment.

Furthermore, the emphasis on efficiency shapes the organizational forms to which administrative structures are subjected. Instead of the "rigidity and stagnation" characteristic of the bureaucratic organization, the managerial model is founded on flexibility and adaptability. This is reflected in the creation of flexible and autonomous decision-making units—such as quality circles, management by objectives, and service projects—tasked with implementing programs with specific goals, managing particular cases, or finding solutions to problems that impede the objectives of the administrative organization.

Additionally, the managerial model proposes a new administrative approach that grants greater initiative to subordinates in decision-making. Rather than turning them into docile agents who merely execute decisions imposed by higher levels of the administrative organization, it enhances their agency. In this management style, the role of hierarchical authority changes: the leadership function characteristic of the bureaucratic organization gives way to functions of facilitation and coordination. These functions are primarily exercised to overcome obstacles and avoid conflicts, thereby fostering efficient working conditions within the organization. Consequently, hierarchical orders and instructions that subordinates were once required to obey are replaced by simple directives that allow for a margin of initiative and freedom in decision-making. At the same time, decision quality improves due to the encouragement of subordinate participation and the incentive to express their viewpoints. These factors help eliminate resistance and promote the integration and mobilization of subordinates toward achieving the administrative organization's objectives.

Inspired by economic theories and concepts, theorists of administrative science and administrative jurists distinguish among three overlapping and interdependent concepts: efficiency, effectiveness, and economy. Efficiency refers to the extent to which public policies, laws, and actions adopted by the State and its public administration achieve their intended objectives. Effectiveness measures the degree of commitment by the individuals concerned to implement the policies, laws, and administrative actions imposed on them—in other words, the alignment between the objectives set by administrative organizations and the actual behavior of the targeted individuals and groups. Finally, economy is measured by the cost relative to the benefits or gains—that is, the prudent use of resources invested to achieve the objectives pursued through public policy, legislation, or administrative activity.

These three concepts have become interdependent and indicate that any administrative action, regardless of its nature, must be assessed according to these criteria. Therefore, given the complexity of the State's administrative interventions and the limited resources available, measures taken must achieve the expected results in an economical and rational manner, both in terms of expenditures and acceptance by target groups. Through the principle of efficiency, various public policies, laws, and activities carried out by public administrations are evaluated. This principle has become, alongside the principle of legality, a fundamental criterion for administrative action. Administrative action is no longer limited to compliance with legality through internal or external legal constraints but is also evaluated in terms of performance and efficiency through various assessment mechanisms.

The managerial model and the evolution of administrative judicial control

The establishment of the principle of efficiency within the public administrative apparatus leads to increased control over various administrative activities (e.g., draft laws developed by the executive authority, administrative decisions or contracts, public policies, and material actions). Consequently, violations of the principle of legality can be monitored through mechanisms of prior hierarchical authority (via orders, instructions, and directives), a posteriori measures (via annulment, correction, and substitution), or judicial review (through annulment actions, compensation claims, or full jurisdictional actions). However, non-compliance with the principle of effectiveness is addressed through an evaluation process conducted by entities either internal or external to the administration.

The guarantee of the legality and efficiency of administrative action confronts law and judicial control with two different logics or rationalities: legal rationality and managerial rationality. Legal rationality is employed by judges to ensure the principle of legality through legal reasoning, applying a legal rule to a specific case and respecting the external legal constraints imposed by the legislator or the legal rules established by the administration. Managerial rationality, on the other hand, ensures the principle of efficiency, which requires assessing the impact of the legal rule once implemented in reality and determining whether it achieves the expected results.

The submission of administrative action to this dual control raises the question of judicial review. Specifically, while the administrative judge is authorized to control the legality of acts by various public administrations, their role in monitoring the effectiveness of these acts remains limited; otherwise, they would exceed their function as judges ensuring the proper application of legal rules and become evaluators of the administration, thereby violating the principle of separation of powers (Flückiger, 2001).

Law and Administrative Justice: Disappearance or Continuity?

At their inception, administrative law and justice were tools regulating various administrative activities, in accordance with the functions of the traditional state and its administrative apparatus. However, the changes the State has undergone—transitioning from a guardian State to one intervening in economic and social fields—are reflected in the pillars on which administrative law rests: public service, administrative decisions, administrative liability, administrative contracts, and so forth. These transformations have prompted the administrative judge to seek new solutions for administrative disputes in order to keep pace with developments in administrative law and to adapt to the constraints imposed by the realities of administrative action.

Administrative law at the heart of a turbulent change (Caillosse, 2015)

Administrative law aims to reconcile two objectives: to enable the administration to have effective means of action to achieve the public interest, and to guarantee the maximum protection of the rights and freedoms of the individuals subject to the authority of the administration. However, these two objectives are inherently contradictory, in that the first requires granting the administration the power to use the prerogatives of public authority, while the second demands a limitation of this power.

Because administrative law is, by nature, a law of prerogatives, it allows the administration to resort to coercive mechanisms and to benefit from unusual privileges in relationships between individuals to serve the interest of society, thus creating unequal relationships with those who are subject to its authority. It thus differs from the rules of private law, which are based on different foundations and pillars such as individualism, consent, equality, and the autonomy of will. This characteristic of prerogatives, which allows the public administration alone to benefit from privileges through administrative law distinct from private law rules, has weakened over the past few decades. In weakening the framework of "prerogatives" as essential concepts of administrative law, the boundary between public and private management forms and means has blurred. Traditional administrative law, in its early days, was based on the distinction between the domain of the State and the domain of individuals, or the distinction between public law entities and private law entities. In this division, only the State and other public legal entities exclusively manage administrative activities concerning public order and public services according to strict legal rules that govern the means and objectives; their intervention in the economic domain, whether industrial or commercial, constitutes an exception and remains within the domain of individuals. Even when private individuals replace public law entities and carry out these administrative activities, they do so using the means of administrative law and are subject to the supervision and control of the competent administrative bodies.

This traditional framework of the functions of the State and its administrative apparatus has changed mainly due to the State's intervention in the economic and social domains (d'Almeida-Topor, 2013). Functions related to public order or the satisfaction of public needs through public services, which were once an integral part of administrative activity, are now being entrusted to private actors, as is the case with concession contracts or the delegated management of numerous services such as security, hygiene, or infrastructure services. At the same time, public law entities have begun to undertake economic activities of an industrial or commercial nature that were previously reserved for private entities. The transformation of the functions of the State and its administrative apparatus, as well as those of the private sector, has led to a double contradiction: part of the administrative activity is carried out by private actors using the means of administrative law and the privileges of public authority, while the economic activities of private actors are being conducted by the administration through public establishments and enterprises of an industrial and commercial nature according to the rules of private law. This has led to an overlap between general management rules and specific management rules, as well as difficulty in establishing criteria to distinguish between the competencies of ordinary jurisdiction and those of administrative jurisdiction.

Similarly, the distinctive nature of traditional administrative law, due to its objective of serving the public interest and the unconventional means used in relations between individuals, has made it an exceptional law based on the inequality between two categories of legal subjects: the administration, holder of the power that orders, prohibits, authorizes, and unilaterally grants licenses; and the subjugated individuals — the citizen, the user, the public, and all those who are subject to the administration's authority. Thanks to globalization and the spread of democratic values, individual citizens and the public in general have developed ambitions and demands toward the administration to intervene quantitatively and qualitatively in social and economic areas. They expect a reduction in social vulnerability and support for disadvantaged groups, healthcare, environmental protection, consumer protection, as well as protection of artisans and production sectors against risks that threaten their production capacity. Faced with these demands, the administration can no longer rely solely on its authority and will to impose its policies and decisions in order to influence reality. Rather, it must resort to other mechanisms based on participation, dialogue, and consultation with the concerned groups, or turn to amicable mechanisms to resolve disputes through mediation, arbitration, and conciliation instead of courts.

Traditional administrative law was once considered an authentic system of independent and unique legal rules due to its sources, foundations, and concepts, but the harmony and stability that characterized it for a long time are now collapsing. Thus, the changes to which administrative law has been subjected have not been limited to the forms and means of its management but have also affected its sources, foundations, and concepts, thereby creating an imbalance in the harmony of its rules and principles (Mockle, 2016).

Administrative jurists agree that the sources of administrative law, at the beginning of its formation, were largely influenced by jurisprudence and administrative doctrine. Historically—and particularly in France, the cradle of administrative law and justice—due to the lack of administrative legislation, the French Council of State, with the help of eminent jurists, was able to

establish principles and rules governing the activity of the administrative apparatus. Their efforts led to outlining the contours of administrative law and bringing to light numerous principles, theories, and rules that govern it, such as administrative responsibility, administrative contracts, administrative decisions, and material acts. Over time, the legislative power intervened to adopt administrative laws governing the organization of public administrations, their competencies, their means of action, and their relations with the public.

However, the expansion of administrative activities and their submission to competition rules due to the dominance of the market economy, as well as the appointment of management positions within the administration by elites trained in private management, have shaken this scheme. On the one hand, while the executive power was once constrained by the principle of legality due to its submission to external legal constraints imposed by the legislator, it has now become an essential source of legal rules for the subordinate administrative apparatus, conferring upon it broad discretionary powers driven by efficiency and profitability, often to the detriment of the principle of legality. On the other hand, numerous legislative laws have led to the emergence of new actors outside the State's public authorities, who have effectively contributed to the formulation of legal rules governing administrative bodies, inspired by forms of private management. This diversity of legal rule sources within the administrative apparatus, deriving from external origins, has made these rules hybrid and incoherent, while rendering the role that judges and jurists once played in creating and interpreting secondary and complementary administrative law rules less central. Consequently, the pillars and concepts of traditional administrative law have also become hybrid and incoherent, creating a crisis characterized mainly by the following three changes:

- Change in the concept of administrative public service: it is now managed according to the rules of administrative law and private law, and the "user" of the services has become a "client" or a "consumer". Instead of talking about meeting public needs through public services, the focus is now on the quality and profitability of public services.

- Change in the concept of a civil servant: The unilateral administrative decision regarding appointments to public jobs, which distinguishes government jobs and places the civil servant in a permanent statutory and regulatory position vis-à-vis the administration, has gradually been replaced by a contract system as is the case in the private sector, and seniority-based promotion has been replaced by performance-based promotion as the fundamental rule for evaluating employees.

- Change in administrative law as a law of prerogatives , which has retreated in favor of private management rules: Unilateral administrative decisions, which are considered one of the distinctive features of authoritarian administrative law, alongside administrative contracts, and one of the legal means of administrative action, expressing a unilateral will, that of the public authority to influence reality, now work alongside other non-authoritarian mechanisms based on cooperation, consultation, and dialogue. Furthermore, the concept of public domain, which was subject to the strict rules of administrative law, such as their inalienability, is being replaced by the concept of public property, which has largely been freed from these rules.

Thus, public administrations have begun to adopt a management logic related to the notion of "management" similar to the forms of management in the private sector and different from traditional authoritarian management forms. In this process, characteristic prerogatives of administrative law has lost part of its hegemony in favor of private management rules, which has affected its unity.

In this context of the crisis faced by public authorities, it seems that the demands for legal legality are giving way to the challenges of efficiency, which means abandoning administrative law in its traditional form of "rigid law" unilaterally imposed with its characteristics of constraint and obligation, in favor of an alternative administrative law that is "flexible, adaptable, fluid, open", based on negotiation, participation, consultation, and consensus (Deumier, 2009; Emeric, 2017).

Administrative jurisdiction and the necessities of adaptation (Pasare)

Administrative justice seeks to reconcile two interests: the general interest, as represented by the administration in the context of its various administrative activities; and private interests, manifested through the respect of individuals' rights and freedoms guaranteed by law. Traditionally, administrative disputes resolved this issue by prioritizing the rights and freedoms of individuals and imposing restrictions on the exercise of administrative powers, without undermining the objectives related to the public interest that the legislator aims to achieve.

With the increase in administrative activities due to the State's intervention in numerous areas and the limitation of funds

allocated to governmental activities, the administration seeks to make its actions more efficient at a lower cost, sometimes to the detriment of the principle of legality. Moreover, the administration, through its ability to establish legal rules in the form of draft laws, executive or independent regulations, or regulatory decisions, has granted itself broad discretionary powers that have become difficult for judges to restrict through legality rules. Thus, administrative law has appeared under a new guise and with new legitimacy: the general interest, which was previously realized without infringing on private interests, has been replaced by a general interest that requires prioritizing administrative action and administrative activities as an independent expression of the will of the public authority, surpassing the will and interests of individuals. As a result, the legal rules that previously constituted constraints on the administration have become means for the administration to carry out its activities freely.

Considering the above, the question thus arises as to what extent the administrative judge is capable of adapting their control to keep pace with developments in administrative law in its new form. In principle, the justification for the existence of administrative justice is to protect individuals against any potential abuses resulting from the illegality of the administration's interventions and actions. Yet, the judge's power, given the developments accompanying administrative intervention, cannot extend so far as to compel the administration to perform an act in a specific manner, since the principle of separation of powers prevents the judge from intervening directly in administrative matters. Moreover, the administrative judge often refrains from challenging the legal qualification that the administration assigns to acts in which it enjoys a wide margin of maneuver. Consequently, the margin of initiative for the administrative judge remains limited in the context of the expansion of administrative power. However, this does not prevent the judge from striving to renew mechanisms, concepts, and legal theories in the field of administrative act control to make them compatible with the new administrative reality—such as by requiring the administration to justify its discretionary administrative decisions, or by evaluating the content of administrative acts through cost-benefit analysis, as seen in the balance theory (La théorie du bilan) (Roux, 2021).

Additionally, the administrative judge can extend and broaden their control by resorting to sources that hierarchically prevail over the rules established by the administration—sources that acquire constitutional value, or the status of general principles of law, or derive from international law—in order to formulate new legal rules that limit the powers of the administration or establish new general principles of law that allow the judge to regain control over administrative work.

Judges can rely on their authority to develop existing rules of administrative law, such as their ability to order the administration to suspend the execution of its decisions, to hold the administration accountable under penalty of sanction, or to compel it to enforce judgments rendered against it. Thus, the administrative judge can reclaim their original role as a source of administrative law and a guardian of individual and collective rights and freedoms against potential administrative abuses. By fulfilling this role, the administrative judge helps correct the imbalances in contemporary administrative law caused by the expansion of administrative activities and the broad discretionary powers granted to the administration across various domains. In doing so, they restore the principle of legality to its rightful place and prominence.

The assessment: Disappearance or continuity of administrative law and administrative justice

It seems that administrative law has always sought to reconcile two fundamentally contradictory principles: the principle of legality, which constitutes a constraint on the executive power within the State and its administrative apparatus; and the principle of efficiency, which allows the administration to resort to broad means of action and extensive powers to achieve the objectives assigned to it. The changes to which traditional administrative law has been subjected have affected its content without altering these two principles, although the rules of the new administrative law and the administrative practice of public activities increasingly prioritize efficiency over legality.

Administrative law, with regard to administrative action, is a tool to act upon and influence reality in its various political, economic, and social dimensions—to influence both people and things. Thanks to its rules, the administration can exercise broad discretionary power and benefit from advantages that allow it to make unilateral, enforceable, and binding decisions regarding recipients; conclude administrative contracts granting it exceptional powers relative to its contractual partners; or carry out material acts likely to affect individual and collective rights and freedoms. In general, administrative law, both historically and today, makes the administration a true public authority.

However, regardless of the discretionary powers granted to the administration, these powers remain framed by the principle of

legality. This subjects them to a double constraint: first, imposed by external legal rules of constitutional or legislative value established by constitutional institutions superior within the State apparatus; and second, imposed by judicial control of the administration in several areas, including the protection of individual and collective rights and freedoms, the control of the legality of administrative decisions and contracts, the responsibility of the administration for its legal and material acts, the obligation for the administration to respect administrative and judicial procedures and to execute judgments rendered against it, and the control of internal organizational measures as soon as they exceed mere interpretation. By ensuring the principle of legality, the Rule of Law is upheld.

This explains the continuity of the ideological foundation upon which administrative law has been built, while also linking it to the role of the State and the legitimacy it confers on its actions. The consistent reference to efficiency and constraints does not merely aim to define the legal framework applicable to administrative action but also to ensure the continuity of the representations underpinning the State and its administrative apparatus. Indeed, it is through the reference to efficiency—permitted by discretionary power and the associated privileges—and the constraints ensured by the principle of legality that the legitimization of the actions of the State and the administration, as organs acting in the name of the general interest, is achieved (Cauchard, 2014).

Conclusion

Classical administrative law traditionally served as a key pillar of the State's legitimacy by enshrining the principle of legality. This principle placed definitive limits on the actions of public administration, marking a clear boundary between the public sector and private entities. Unlike private organizations, public administration operated under a distinct regulatory framework governed by legal norms rather than economic or market forces. This established a fundamental distinction between State activities, grounded in legal mandates, and the more flexible, profit-oriented management characteristic of private entities.

However, globalization, accompanied by the spread of liberal values and the rise of the market economy, has introduced profound changes to administrative law, leading to what can be considered a redefinition of its scope, rationality, and underlying values. The adoption of a managerial model has ushered in a new form of administrative law, one that reshapes the domain of public administration by favoring principles of flexibility, efficiency, and profitability over traditional legal imperatives. This evolving model emphasizes streamlined processes, cost-effectiveness, and results-oriented governance, signaling a shift from strictly legal rationality toward an economic rationality better aligned with the demands of modern market dynamics.

The infusion of managerial principles into public administration has undeniably altered the unique character of traditional administrative law. Where once the law primarily regulated public administration to ensure its actions conformed to established legal frameworks, it now often functions as a support system for achieving operational efficiencies. The principle of legality remains foundational, yet it is increasingly tempered by goals of performance and productivity. This new approach has led to a transformation in the role of judicial oversight. While the judiciary once held a central role in safeguarding the legality of administrative actions, its function has adapted to reflect a shifting focus—from strict legal compliance to broader considerations of effectiveness within the public sector.

Nevertheless, despite these transformations, administrative law retains certain enduring features, particularly its exceptional character as a prerogative law grounded in the State's ideological framework. The ideological foundations linked to the rule of law remain intact, even as the mechanics of public administration have evolved. Administrative law continues to function as a tool of governance that upholds State authority, and its essence as a "prerogative law" serves as a reminder of the government's ultimate duty to protect public interests.

Discussing the crisis of administrative law in no way implies its disappearance or the possibility of dispensing with it. This distinctive branch of law carries a fundamental doctrine that enables it to adapt to contemporary innovations. However, its survival and continuity depend on a series of variables whose significance cannot be underestimated—namely, new normative mechanisms that may escape the traditional categories of classical administrative law but maintain close relationships with them.

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